

**IN THE CIRCUIT AND SUPERIOR COURT OF DUBOIS COUNTY**

**In the Matter of Dubois            )**  
**County Local Court Rules        )**

**NOTICE OF PROPOSED NEW RULE ON CRIMINAL DISCOVERY AND**  
**PRETRIAL PROCEDURE AND FINDING GOOD CAUSE TO DEVIATE FROM**  
**ESTABLISHED SCHEDULE FOR ADOPTING NEW LOCAL RULES**

The judges of the Dubois Circuit Court and Dubois Superior Court give Notice under Trial Rule 81 (B) of a proposed new local rule on criminal discovery and pretrial procedure at **LR19-CR00-7** and find good cause under Trial Rule 81 (D) to deviate from the schedule established by the Division of State Court Administration for adopting local rules.

**Comments** may be made on the proposed new rule until **April 20, 2015** to:

**Hon. Nathan A. Verkamp**, Dubois Circuit Court, or **Hon. Mark R. McConnell**, Dubois Superior Court, at One Courthouse Square, Jasper, IN 47546-3088, or by email at: [naverkamp@duboiscountyin.org](mailto:naverkamp@duboiscountyin.org) or [sabramess@duboiscountyin.org](mailto:sabramess@duboiscountyin.org).

The **effective date** for the new rule will be **May 1, 2015**.

DATED this 19th day of March, 2015.

\_\_\_\_\_/S/\_\_\_\_\_  
Nathan A. Verkamp, Judge  
Dubois Circuit Court

\_\_\_\_\_/S/\_\_\_\_\_  
Mark R. McConnell, Judge  
Dubois Superior Court

In all criminal cases, pretrial discovery shall be conducted as follows:

**I. INFORMATION TO BE PROVIDED BY THE STATE WITHIN FORTY (40) DAYS:**

The State of Indiana shall provide to the defendant, in written form, within forty (40) days of the date of this discovery order, the following discovery information:

- (1) The names and last known addresses of all persons whom the State of Indiana intends to use as witness in the prosecution of this case.
- (2) A list of names and last known addresses of those persons that the State believes to have knowledge pertinent to this cause, but who may not be called as a witness in the trial of this cause.
- (3) A copy of all written statements, transcripts of recorded statements, memoranda, and summaries of oral statements of persons whom the prosecuting attorney intends to call as witnesses in the prosecution of this case.
- (4) A list of criminal convictions, if any, of all witnesses whom the State plans to call to testify at trial. Also, a list of crimes, wrongs or acts, if any, of the defendant which the State intends to offer into evidence, pursuant to Indiana Evidence Rule 404(b), and the general nature of such evidence.
- (5) Any and all written or recorded statements and the substances of any oral statements made by the defendant to agents of the State of Indiana or to private individuals assisting the aforesaid authorities, including any warnings of rights read to or alleged waivers obtained from the defendant, and a list of witnesses to the making and/or acknowledgement of such statements.
- (6) State whether or not the use of an informant is in any way involved in the State's case, and if so, upon motion by the defendant, make available for deposition.
- (7) State the name and address of each and every person who was present and/or who took part in or witnessed the criminal act which the defendant is accused of committing.
- (8) All written reports, notes, memorandum, maps, drawings or diagrams written, drawn or otherwise prepared by any law enforcement agency or individual in connection with or pertaining to the investigation of the crimes charged against the defendant.

- (9) Copies of all photographs which the State of Indiana intends to or may offer into evidence at the trial of this case, and all other photographs relevant to the subject matter of this case, including any photographs of physical evidence in the State's possession.
- (10) All tangible or demonstrative objects, books, papers or documents which the State of Indiana will use in the trial or which were obtained from or belong to the accused, including that evidence which was seized at the time of the apprehension of the defendant, as a result of execution of search warrants, or if such search was based on any alleged consent by defendant, the circumstances in which such alleged consent was obtained.
- (11) Any and all reports, laboratory or otherwise, or statements of experts made in connection with this particular case, including results of physical examinations and of scientific tests, experiments or comparisons by any agents of the State of Indiana, or private individuals, and on which the prosecution intends to rely at trial.
- (12) The name, address and area of expertise of any expert witness that the defendant intends to call as a witness in this cause; the subject on which the expert is expected to testify, the substance of the facts and opinions which said expert is expected to testify.
- (13) Any promises of leniency or immunity made to any witnesses, any implied promises made to any witnesses, or any promises of leniency or immunity that will be made in the future to any witness by a prosecuting attorney, deputy prosecuting attorney, or any law enforcement officer or employee.
- (14) A statement in writing by the prosecuting attorney as to whether hypnosis has been used or attempted to be used on any witness in the investigation of the offense charged against the defendant.
- (15) That the State of Indiana provide counsel for the defendant access to the scene of the alleged crime at a time and place convenient to the parties, and the right to inspect, measure, and/or photograph said premises.
- (16) Pursuant to Brady v. U.S., the State shall produce all exculpatory evidence as it becomes available.

## **II. NOTICE OF COMPLIANCE BY STATE:**

Within forty (40) days of the date of this discovery order, the State shall provide the Court, in writing, with notice of its compliance with the foregoing provisions of this discovery order.

## **III. INFORMATION TO BE PROVIDED BY THE DEFENDANT WITHIN SIXTY (60) DAYS.**

Counsel for the defendant shall provide to the State, in written form, within sixty (60) days of the date of this discovery order, the following discovery information:

- (1) Inform the State and permit it to inspect and copy or photograph any report or result, or testimony relative thereto, of physical or mental examinations or of scientific tests, experiments or comparisons, or any other reports or statements of experts which defense counsel has in his possession or control, except those parts which defendant does not intend to use.
- (2) Inform the State of any defense which the defendant intends to make at a hearing or trial.
- (3) Furnish the State with the names and last known addresses of persons the defense intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record known of prior criminal convictions of said witnesses.
- (4) Furnish the State with all books, papers, documents, photographs or tangible objects the defendant intends to use as evidence or for impeachment at a hearing or trial.
- (5) A list of names and last known addresses of those persons that the defendant believes to have knowledge pertinent to this cause, but who may not be called as a witness in the trial of this cause.
- (6) Inform the Court and State of any objection to evidence which the State has given notice of intent to offer, pursuant to Evidence Rule 404(b), by filing of a motion in limine.
- (7) True, accurate and complete copies of any exhibits that the defendants intends to introduce at the trial of this cause.
- (8) The name, address and area of expertise of any expert witness that the defendant intends to call as a witness in this cause; the subject on which the expert is expected to testify, the substance of the facts and opinions which said expert is expected to testify.

- (9) Any evidence which the defendant intends to offer pursuant to Evidence Rule 702, including true, accurate and complete copies of any reports, examination results, test results or experiment results compiled or prepared by an expert at the request of the defendant, and disclose any objection he or she may have pursuant to Evidence Rule 702(b) to the State's experts.

#### **IV. NOTICE OF COMPLIANCE BY DEFENDANT.**

Within sixty (60) days of the date of this discovery order, counsel for the defendant shall provide the Court, in writing, with notice of defendant's compliance with the foregoing provisions of this discovery order.

#### **V. FINAL WITNESS AND EXHIBIT LIST.**

Final witness and exhibit lists shall be exchanged by the parties and filed with the Court no later than ten (10) days following the final pretrial conference in this cause.

#### **VI. SUPPLEMENTATION OF DISCOVERY RESPONSES.**

Should either party find at any time additional information, facts, objects or persons which would be subject to or covered by this discovery order, that party shall promptly notify the other party, in writing, of the finding.

#### **VII. DISCOVERY DEADLINE.**

All depositions and discovery shall be completed at least twenty-one (21) days prior to the scheduled trial date in this cause. Additional time for depositions and discovery may be obtained only by leave of this Court for good cause shown.

#### **VIII. DISCOVERY MATTER IN CONTROVERSY.**

Any discovery matters in controversy between the parties shall be brought to the Court's attention in such time and manner to allow a hearing to be conducted to resolve the matter without compromising the scheduled trial date.

#### **IX. PRETRIAL MOTIONS.**

All substantive motions, including motions to suppress, motions to dismiss, 404(b) requests and notices which are not controlled by statutory deadlines shall be filed no later than ten (10) days following the final pretrial conference.

## **X. JURY INSTRUCTIONS.**

Within ten (10) days of the final pretrial conference in this cause, each party may submit to the Court proposed pattern jury instructions and up to ten (10) non-pattern jury instructions to be considered by the Court for reading to the petit jury at the trial of this cause.

## **XI. PLEA NEGOTIATIONS.**

All plea negotiations shall be completed and finalized at least ten (10) days prior to the scheduled trial date in this cause.

## **XII. CONTINUANCE.**

A continuance may not be granted, absent extenuating, unforeseeable circumstances of no fault of the movant, within ten (10) days of the scheduled trial date.

*(Added effective May 1, 2015)*